

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSEPH FERRARA,

Civil Action No.:

Plaintiff,

NOTICE OF REMOVAL

-against-

COSTCO WHOLESALE CORPORATION,

Suffolk County

Index No.: 608989/20

Defendant.

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TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK:

Defendant, COSTCO WHOLESALE CORPORATION (hereinafter
"Costco"), by its attorneys, SIMMONS JANNACE DELUCA, LLP, upon
information and belief, respectfully petitions the Court, pursuant
to 28 U.S.C. § 1441, as follows:

1. The above-captioned civil action was commenced and is
now pending in the Supreme Court of the State of New York, County
of Suffolk bearing Index Number 608989/2020. A trial has not yet
been had therein. A copy of the Summons and Verified Complaint is
annexed as **Exhibit "A"**.

2. On August 6, 2020, this office interposed an Answer to
plaintiff's Complaint on behalf of Costco. A copy of defendant's
Answer is annexed hereto as **Exhibit "B"**.

3. The action seeks monetary damages for injuries allegedly
suffered by plaintiff, JOSEPH FERRARA, allegedly as the result of

JOSEPH FERRARA being on the premises of defendant's store. The plaintiff's Complaint sounds in negligence.

4. The action involves a controversy between citizens of different states, in that: (a) plaintiff is a citizen of the State of New York; and (b) defendant Costco is now, and was at the time the action was commenced, a corporation incorporated in the State of Washington with its principal place of business in the State of Washington.

5. This action is one of which the District Courts of the United States have original jurisdiction under 28 U.S.C. § 1332. There is complete diversity between the parties.

6. In addition, the amount in controversy exceeds \$75,000, as evidenced by paragraph one (1) of the plaintiff's Response to Combined Discovery (**Exhibit "C"**), in which it is alleged that plaintiff demands one million (\$1,000,000) dollars for plaintiff's alleged damages.

7. This Notice of Removal is being filed within thirty (30) days of receipt of plaintiff's monetary demand.

8. Written notice of the filing of this Notice of Removal will be given to plaintiff promptly after the filing of this Notice.

9. A true and correct copy of this Notice of Removal will be filed with the Clerk of the Court of the Supreme Court of the

State of New York, County of Suffolk promptly after the filing of this Notice.

10. Attached to this Notice, and by reference made a part hereof, are true and correct copies of all process and pleadings filed herein.

11. By filing this Notice of Removal, defendant does not waive any defense which may be available to it, specifically including, but not limited to, its right to contest *in personam* jurisdiction over plaintiff's improper service of process and the absence of venue in this Court or the Court from which this action has been removed.

WHEREFORE, defendant prays that the above-captioned action now pending in the Supreme Court in the State of New York, County of Suffolk, be removed therefrom to this Court.

Dated: Hauppauge, New York
May 4, 2021

Simmons Jannace DeLuca, LLP

BY: 

Merle Schrager

Attorneys for Defendant

COSTCO WHOLESALE CORPORATION

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TO:

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